IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1953 OF 2005

Delta (Worldwide) Maschinen Fabrik Pvt. Ltd. ...Petitioner

Versus

The Solapur Janata Sahakari Bank Ltd. & Ors. ...Respondents

.....

Mr. U.P. Warunjikar, counsel for Petitioner

Mr. G.S. Godbole, counsel for Respondent No.1.

Mr. D.A. Patil, A.G.P. for Respondent No.3.

.....

CORAM: B. H. MARLAPALLE, J.

DATED: 29TH MARCH, 2005

P. C.:-

1. Heard Mr. Warunjikar, the learned counsel for the petitioner.

2. The Recovery Certificate U/sec. 101 of the Maharashtra Co-operative Societies Act, 1960 (for short "the Act"), has been issued by the Special Recovery Officer on 22.6.2001 and the same was not challenged by filing Revision Application U/sec. 154 of the Act. Consequently, the execution proceedings have been initiated and the hypothecated property has been put to an auction. The auction sale is scheduled today at 2.00 p.m..

3. Once the Recovery Certificate had reached the finality, the execution proceedings would follow. Even after the auction sale is held and the higher bidder is allotted, the petitioner would receive the notice from the Bank regarding the same and unless the confirmation order is passed by the Deputy Registrar, Co-operative Societies, the auction sale is not final. All the legal issues raised in this petition can be agitated before the Deputy Registrar in the confirmation proceedings.

4. There is no case made out at this stage to intervene and stay the Recovery Certificate issued U/sec. 101 of the Act and therefore, the prayer for stay to the auction sale cannot be entertained.

5. The petition is rejected summarily.

6. However, it is made clear that this order will not come in the way of the petitioner to resort to an alternative legal remedy as may be available to them.